

Statement No: 1

Exhibits: 70

Dated: 11 December 2023

UK COVID-19 PUBLIC INQUIRY
WITNESS STATEMENT OF JON LUXTON

I provide this witness statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 18 April 2023, referenced M2B/WG/JL/01, and addressed me in my capacity as Specialist Advisor to the Welsh Government regarding Disability, and at the time, LGBT+ Equality. This statement relates primarily to the period 21 January 2020 to 30 May 2022 ("the specified period").

Preface

1. The pandemic placed the world in a situation it had not faced in over 100 years, and like most of the world, the UK was not adequately prepared to respond to the challenges we suddenly faced.
2. I believe that this lack of preparation was partly down to scepticism, for while most of the world understood that the historical likelihood of a pandemic was high, this understanding remained in the realm of theory and the hope that it will not happen on our watch. Unlike most of the world, much of East and Southeast Asia had lived through the SARS epidemic, so their learning was both theoretical and experiential, hence their preparation was in general was far greater than most of the world.
3. When Welsh Government / ONS identified that Wales's disabled and Black, Asian, Minority Ethnic populations were disproportionately affected by the pandemic, the Welsh Government quickly moved to discover why. Working with the Welsh Government's Disability Equality Forum and the Wales Race Forum, two reports were produced:
 1. Locked out: liberating disabled people's lives and rights in Wales beyond COVID-19
 2. First Minister's Black, Asian, Minority Ethnic Covid-19 Advisory Group report of the Socioeconomic Subgroup
4. These two reports identified pre-covid existing socioeconomic issues as being major drivers for the disproportionately high death rates in these two communities. With this

detailed understanding, and working in co-production with people with lived experience, the third sector, governmental bodies, Welsh Government officials, expert individuals, and organisations representing race and disability equality, two far reaching action plans were produced:

- (a) Anti-racist Wales Action Plan – 2022
- (b) Disability Rights Action Plan – to be published in 2024

5. I believe that this Welsh Government approach to the impacts of the Covid-19 pandemic is unique and should be applauded. We recognised that to truly prepare for an epidemic or a pandemic, we would have to address the discrimination that disabled and Black, Asian, Minority Ethnic people face. Only through banishing racism and ableism to the past and addressing the socioeconomic issues that are the result of racism and ableism, can these communities develop the resilience that would prevent them from being disproportionately affected by future health or economic crises.

Background, qualifications and career history

6. I began my career in the Welsh Government in 1997, when I was appointed as a Higher Executive Officer (HEO) to work on health based IT projects. From there, I moved into the then Equality Unit where my job description was Disability Special Projects manager. Shortly after that I was invited to take part in a two year Cabinet Office scheme for potential high achievers. At that time, I was struggling to break the disability discrimination-based glass ceiling, with promotion seeming impossible within the Welsh Government. In 2001, this led me to switch to a part-time role and to set up my own consultancy businesses which I continue to operate to this day. The company through which I currently operate is called Re-cognition CIC.
7. Through my business, I offer a wide range of services, including large scale public engagement with so called 'hard to reach' groups or groups of interest, consultations, intelligence work, public affairs, policy development, and general equality based work. My client base includes the Welsh Government and other public and third sector bodies. I also regularly carry out pro bono work.
8. From 2005 to 2016, I also worked as a guest lecturer at Cardiff University and three separate courses at what is now the University of South Wales, focusing on the Social Model of disability. The Social Model of disability is the understanding that disability is something that is created by society, as a result of the barriers that 'disable' people

with impairments, thus preventing them from participating in society in the same way as non-disabled people. This is distinct from the Medical Model of disability, which focuses on the impairment or health condition.

9. I was also a guest lecturer on medical ethics, as part of the MSc Genetic Counselling Course at the Institute of Medical Genetics.
10. I also have an active political career in the Labour Party, and I served as Deputy Mayor for Penarth in 2017/2018 and as Mayor for Penarth in 2018/2019. I have always been and will always be a campaigner for the rights of disabled people everywhere.
11. I have continued to work within the Welsh Government since my initial appointment in 1997, and I have occupied many different roles, including ICT (web design, web coding, user acceptance testing, modernisation role outs, legal ICT systems), equality policy development, development of statutory guidance, communications, internal equality based systems development, and equality based research.
12. In 2019, I was approached by the First Minister and invited to take up the role of Specialist Adviser for Disability Equality. I was appointed on 22 October 2019 (on a part-time basis, as has been the case since 2001). This was a new role within the Welsh Government, and I understand that Wales is the only nation in the United Kingdom which has established such a wide-ranging role. My function as Specialist Policy Adviser is to provide expert input and advice from an equalities perspective across all Welsh Government Ministerial portfolios and including where this may involve challenge to measures being contemplated or taken by the Welsh Government.
13. As an example, in the short period between my appointment and the outbreak of Covid-19, the Deputy Minister and Chief Whip, Jane Hutt AM, commissioned officials to contract People First to undertake a series of 22 pan-Wales workshops that aimed to gather information about the hate crime experiences of people with a learning disability. This included barriers encountered by those individuals when reporting hate crime to the police.

My role during the specified period

14. It became clear very quickly, at the outset of the pandemic, that disabled people were being disproportionately adversely affected by Covid-19. The Office for National Statistics that were released on 18 September 2020 evidenced that the majority of the

deaths from Covid-19 (68% in Wales) were to be found amongst disabled people. At this time, my role as Specialist Policy Adviser was to focus exclusively on the impact of Covid-19 on disabled people and what steps needed to be taken by the Welsh Government to mitigate that impact.

15. A lot of this work was conducted through the Disability Equality Forum, the meetings of which I attended in my capacity as Specialist Policy Adviser, along with other Welsh Government officials, and which I address in detail below.

16. Aside from the work of the Disability Equality Forum, I also played a role in the following key aspects of the Welsh Government response to the pandemic.

Daily meetings with Deputy Minister and Chief Whip

17. From early April 2020, the Deputy Minister and Chief Whip met daily with officials from the Welsh Government's Communities and Tackling Poverty Directorate, to discuss the impact of Covid-19 on the wide range of areas that fell within the Directorate's remit and the measures being implemented to address that impact. These areas included, for example, violence against women, domestic abuse and sexual violence (VAWDASV); policing and crime; the third sector and volunteering; faith aspects of burials and funerals; and the impact of Covid-19 on Black, Asian and Minority Ethnic communities and the full range of impact on disabled people. Because many of these areas also concerned equalities issues, I was asked to attend these meetings in my capacity as Specialist Policy Adviser. The meetings were short and necessarily high-level, but their purpose was to shape and provide the Deputy Minister and Chief Whip with an overview of the work being carried out across a broad range of important areas. I exhibit the minutes of the meetings that took place on 8 April 2020 (M2B-WG-JL-01-01/INQ000349304); 9 April 2020 (M2B-WG-JL-01-02/INQ000352992); 6 April 2020 (M2B-WG-JL-01-03/INQ000349388); 4 May 2020 (M2B-WG-JL-01-04/INQ000353022); 13 May 2020 (M2B-WG-JL-01-05/INQ000353039); 15 May 2020 (M2B-WG-JL-01-06/INQ000353048); 18 May 2020 (M2B-WG-JL-01-07/INQ000353053); 28 May 2020 (M2B-WG-JL-01-08/INQ000349509); 9 June 2020 (M2B-WG-JL-01-09/INQ000349588).

18. Aside from these meetings, I was in very regular communication with the Deputy Minister and Chief Whip throughout the specified period, and provided advice as and when required in relation to matters concerning equalities.

Coronavirus Act 2020

19. Welsh Government officials engaged with UK Government officials on the development of the Coronavirus Bill in March 2020. The Bill became the Coronavirus Act 2020 when it received Royal Assent on 25 March 2020.
20. Under normal circumstances, local authorities have a duty to assess and arrange services to meet the needs of disabled adults and their carers under the Social Services and Well-being (Wales) Act 2014. What was originally Part 2 of Schedule 12 of the Coronavirus Act 2020 effectively removed this duty in relation to Wales, with the exception of cases where the adult or carer might be experiencing or was at risk of abuse or neglect. On 1 April 2020 the Coronavirus Act 2020 replaced this duty by giving local authorities optional powers to provide such health and social care services, where they were able to do so.
21. I understand that the effect of Part 2 of Schedule 12 was highlighted in the Ministerial Advice that addressed the Welsh Government's instructions to UK Government on the drafting of the Coronavirus Bill. I exhibit that Ministerial advice, dated 6 March 2020, as **M2B-WG-JL-01-10/INQ000299005**. I was not aware of the Ministerial Advice when it was first distributed within Welsh Government, because I was off work with Covid-19. I first became aware of the proposals regarding Schedule 12 when I heard Baroness Tanni Grey-Thompson's speech in the House of Lords, on 24 March 2020, when the Bill was debated.
22. I was extremely concerned about the changes that were made by Part 2 of Schedule 12 of the Coronavirus Act 2020 as it broke the social contract between disabled people and the state. In some circles it became known as the 'social care obliteration act'.
23. On 8 April 2020, once the Bill had received Royal Assent, the Welsh Government opened a rapid consultation process in relation to the draft guidance that it intended to publish for local authorities on the changes made to the legislative provisions on adult social care under the Coronavirus Act 2020. I exhibit a copy of the Ministerial Advice, dated 8 April 2020, relating to the consultation as **M2B-WG-JL-01-11/INQ000104017** and the draft guidance circulated at the time as **M2B-WG-JL-01-12/ INQ000081064**.
24. I exhibit an email that I sent to the Deputy Minister and Chief Whip on 14 April 2020 expressing my concerns, which the Minister indicated she would raise with the Welsh Government's Counsel General, as **M2B-WG-JL-01-13/INQ000352997**. The

exchange between the Minister and Counsel General, in which I was also involved, is exhibited as **M2B-WG-JL-01-14/INQ000349330** and **M2B-WG-JL-01-15/INQ000352998**.

25. On 16 April 2020, the Disability Equality Forum met. I attended that meeting, which was chaired by the Deputy Minister and Chief Whip. I exhibit the minutes of that meeting as **M2B-WG-JL-01-16/INQ000282066**. There was a lot of discussion at the meeting about the draft guidance that had been circulated for the purpose of the consultation, and the members of the Forum were able to raise questions and concerns that they had. I felt this was a very difficult and depressing meeting, people were fearful of the increase risk the virus was posing, because of the negative impacts for disabled people and the socioeconomic disadvantages they faced. As is recorded in the meeting minutes, the Head of Assessment and Eligibility, from the Welsh Government's Health and Social Service Directorate, encouraged members to submit written responses to the consultation, in addition to the matters raised at the meeting which, I understand, were all fed back to the policy officials who were working on the draft guidance.
26. The Disability Equality Forum met again on 30 April 2020. I attended that meeting, which was also chaired by the Deputy Minister and Chief Whip, and I exhibit the minutes as **M2B-WG-JL-01-17/INQ000282065**. By that time, some members of the Forum had submitted written responses to the consultation on the proposed guidance to local authorities, and a revised draft of the guidance had been circulated to members. There was further discussion at this Forum meeting about the guidance, and specifically the changes that had been made in the revised version. My view was that the revised guidance reflected a substantial improvement on the first draft but could not protect disabled people if the Local Authority simply wanted to be guided by the Act and the options that were available under it. In particular, even though the guidance stated that the modifications to the duty under the Social Services and Well-being (Wales) Act 2014 should "only be exercised as a last resort" and that local authorities "should comply with the unmodified 2014 Act requirements and related Codes of Practice for as long and as far as possible", my concern was that this was only guidance, and that local authorities could simply choose to follow the Act which did not say anything about only relying on the modifications "as a last resort". The final version of the guidance was published the same day, 30 April 2020, and I exhibit a copy of it as **M2B-WG-JL-01-18/INQ000353330**.

27. On 4 May 2020, the Deputy Minister for Health and Social Services, Julie Morgan AM, issued a Written Statement to address concerns around carers' legal rights as a result of the emergency Coronavirus Act. I exhibit this written statement as **M2B-WG-JL-01-19/INQ000353423**. In this statement, the Deputy Minister stated that all local authorities were expected to maintain the rights provided under the Social Services and Well-being Act 2014, and any changes made should be temporary, justifiable due to unavoidable local circumstances, and removed at the first available opportunity. The issue here, as I saw it, is that we could never find out from the local authorities the extent of the changes they made, nor if their nature proved to be only temporary.
28. Despite the guidance, I was very much concerned that the effect of Part 2 of Schedule 12 was to leave disabled adults vulnerable to not having their needs met, and my strong view was that the provisions should simply be withdrawn. My understanding was that Scotland had not implemented an equivalent provision. I continued to voice my concerns to the Deputy Minister and Chief Whip and to the Deputy Minister for Health and Social Services. On 13 July 2020, I met with the Deputy Minister and Chief Whip and others, to discuss the possibility of withdrawing Schedule 12.
29. On 2 October 2020, the Welsh Government launched a "rapid review" of Part 2 of Schedule 12 of the Coronavirus Act 2020 through which it sought evidence from consultees on whether to maintain or suspend the provisions. Albert Heaney, then Deputy Director General of Health and Social Services, sent a letter dated 2 October 2020 to all members of the Disability Equality Forum as well as various other organisations, informing recipients of the review and inviting responses by 2 November 2020. I exhibit a copy of that letter as **M2B-WG-JL-01-20/INQ000353149**. The "rapid review" was discussed at the meeting of the Disability Equality Forum on 21 October 2020, the minutes of which I exhibit as **M2B-WG-JL-01-21/INQ000353422**. I was not in favour of this rapid review as I believed that Part 2 of Schedule 12 should have been removed on principle rather than on the results of what amounted to an opinion poll. I did not consider that this was the most efficient way to address the concerns, because with political will, Part 2 of Schedule 12 could have been removed much sooner than it ultimately was. The Deputy Minister and Chief Whip shared my view, and I exhibit a letter that the Minister sent to the Deputy Minister for Health and Social Services expressing those concerns, dated 11 November 2020 as **M2B-WG-JL-01-22/INQ000349992**.

30. The outcome of the “rapid review” was announced on 22 January 2021. I exhibit the letter that was sent by Albert Heaney to all respondents to the review as **M2B-WG-JL-01-23/INQ000353207**. In that letter, it was explained that the majority of responses were in favour of suspending Part 2 of Schedule 12 and that the Deputy Minister for Health and Social Care had therefore asked officials to prepare the necessary legislation as soon as reasonably possible, with the clear expectation that the regulations suspending the provisions would be laid in the first quarter of 2021. I also exhibit the Ministerial Advice dated 4 December 2020, further to which this decision was made, as **M2B-WG-JL-01-24/INQ000144934**.

31. In February 2021, a narrative summary of the responses received during the “rapid review” was published, which I exhibit as **M2B-WG-JL-01-25/INQ000353336**. On 19 February 2021, the Deputy Minister for Health and Social Services issued a written statement announcing her intention to suspend Schedule 12 on 22 March 2021. I exhibit a copy of that written statement as **M2B-WG-JL-01-26/INQ000350676**. I also exhibit a copy of the Ministerial Advice dated 12 March 2021, **M2B-WG-JL-01-27/INQ000136847** which provided an update on the position of the UK Government, which had since announced that it was considering passing legislation to expire the equivalent provisions for England. It was estimated that any such action by the UK Government, if it was taken at all, would not take effect until mid to late April 2021 at the earliest, given UK Parliamentary Recess. On that basis, it was recommended that the Welsh Government continue with suspending the Welsh provisions as planned, to take effect on 22 March 2021, rather than waiting to allow for the possibility of taking a joint approach with UK Government. Personally, I took some solace in the belief that my drawn out efforts to remove Schedule 12 may have had an effect on the UK Government’s eventual decision to suspend it.

32. I understand that Part 2 of Schedule 12 was suspended with effect from 22 March 2021, and that a decision was then made to pass legislation expiring the provisions with effect from 1 August 2021. I attach the relevant Ministerial Advices relating to that decision as **M2B-WG-JL-01-28/INQ000116635** and **M2B-WG-JL-01-29/INQ000353248**.

Disability Equality Forum

33. The Disability Equality Forum (“DEF”) is a Welsh Government-led forum, chaired by the Deputy Minister and Chief Whip. The Disability Equality Forum provides advice to

the Welsh Government on issues that affect disabled people. I understand that the Forum was set up in around 2012. Its membership consists of representatives from a wide range of charities, plus disabled people's organisations, including Disability Wales, which is the national association of disabled people's organisations in Wales and receives funding from the Welsh Government. Disability Wales often takes a leading role in the content of the Disability Equality Forum meetings. I have attended the meetings of the Forum since I became a Specialist Policy Adviser in October 2019.

34. My own view is that, before the pandemic, the Disability Equality Forum did not in practice succeed in making any meaningful changes to improve the lives of disabled people in Wales. However, that changed dramatically with Covid-19, when the Forum very quickly assumed a key role in collecting information about the impact of Covid-19 on disabled people and feeding this into to the Welsh Government. Even more importantly, in 2020, the Disability Equality Forum formed the Steering Group that authored the Locked Out report that ultimately led to the creation of the Disability Rights Taskforce (all of which I explain in more detail below). In my opinion, the work of the Disability Equality Forum throughout the specified period was absolutely vital in helping ensure that important decisions that were made by Ministers were more informed by the experience of disabled people in Wales, and how any such decisions would affect disabled people.
35. Before the pandemic, I understand that the Disability Equality Forum usually met twice a year (though this was largely before I took on the role of Specialist Policy Adviser and so I was not involved in those meetings). During the specified period, that frequency increased, with meetings taking place as and when they were required and usually every few weeks. I understand that a selection of minutes of the meetings of the Disability Equality Forum that took place during the specified period are exhibited to the witness statement that is being provided to the Inquiry by the Communities and Tackling Poverty Directorate.
36. The Deputy Minister and Chief Whip continued to chair the meetings of the Disability Equality Forum during the specified period. In addition to the members and policy officials who usually attended the Forum, some meetings were attended by other Welsh Government officials during the specified period, including Sir Frank Atherton (Chief Medical Officer for Wales) and Professor Chris Jones (Deputy Chief Medical Officer), to discuss specific aspects of the Welsh Government response to Covid-19.

37. Throughout the specified period, the Disability Equality Forum raised a broad range of concerns as to the impact of Covid-19 on disabled people in Wales. These concerns included, for example:

- (a) The need for all public communications regarding the pandemic to be available in accessible formats;
- (b) The need for priority shopping slots to be made available for blind and visually impaired people who faced unique challenges, for example when needing to socially distance while shopping for groceries;
- (c) Navigational difficulties and subsequent hate crime experienced by blind and visually impaired people as a result of changes to street layouts (widening of pathways, barriers, etc) and one-way walking, to enable social distancing in public;
- (d) The provision of PPE for unpaid carers of people shielding;
- (e) The need for shielding groups to be represented as part of the 21-day review process, to ensure that the impact on those groups of the easing of restrictions was taken into account;
- (f) The need for clear face masks to assist those who rely on lip reading to communicate.
- (g) The need to remove Part 2 of Schedule 12 of the Coronavirus Act.
- (h) The easing of shielding restrictions, including the removal of the passport system which resulted in the forced isolation of people who have a suppressed immune system.

38. I understand that all such concerns were fed back to the appropriate Ministers and that in some instances this led to changes, for example: changes in relation to public communications; changes to street layouts; the publication of guidance on the Coronavirus Act; the securing of support from supermarkets; and the removal of Part 2 of Schedule 12 of the Coronavirus Act (although that was almost entirely driven by myself).

39. There were other areas where the outcomes of the work of the Disability Equality Forum is more unclear, with the extent of the modification of local authority duties under Schedule 12 being the most important. This is unknown because the Welsh Government faced difficulties in its attempts to ascertain the extent of the impact of Schedule 12 on disabled people in Wales from Welsh local authorities.

40. In around June 2020, I was invited by Claire Bennett, Director of what was then the Communities and Tackling Poverty Directorate, to contribute to a questionnaire that was being sent out by the Welsh Government to local authority heads of service, to provide an update on the types of support then being provided to vulnerable people, including those required to self-isolate and who may be in need of assistance to do this. I drafted a series of questions to be included in the questionnaire that were designed to ensure that information relating to diversity and the needs of Black Asian Minority Ethnic people specifically was being collected as part of the survey.
41. I understand that the questionnaire was eventually sent out to local authorities on 12 August 2020, under a letter to local authorities that was signed by the Minister for Housing and Local Government. I exhibit a copy of that letter as **M2B-WG-JL-01-30/INQ000281824**.
42. I did not see any of the information that was provided by local authorities in response to the questionnaires, my understanding is that it was not possible to carry out any assessment as part of this process as to the extent of the impact of Schedule 12 on the provision of support by local authorities, due to the lack of data that was provided.
43. In 2022, I had another opportunity to try to follow up on possible evidence gathering around the impact that Schedule 12 had had on the provision of services to disabled people during the pandemic. This opportunity arose through my involvement in the further work being carried out by the Wales Covid-19 Evidence Centre (CEC), in collaboration with the Specialist Unit for Review Evidence (SURE) team at Cardiff University, which was commissioned by the Welsh Government. I worked on a set of questions regarding the impact of Schedule 12 to be investigated by the CEC. I exhibit as **M2B-WG-JL-01-31/INQ000353353** a copy of the CEC's Progress Report for the period March to September 2022 which outlines the different research then underway, including, at page 21, the work on investigating the impact of the pandemic on domiciliary care packages. I also exhibit, as **M2B-WG-JL-01-32/INQ000353327** my email to the Minister for Social Justice about this work. Unfortunately, the CEC subsequently confirmed to me that it was not possible to fully investigate the questions that had been posed as the relevant information was held by local authorities which the CEC was unable to access. I exhibit a copy of the CEC's email to me of 12 December 2022 as **M2B-WG-JL-01-33/INQ000353420**. I believe Local Authorities could have easily provided this information, however, there was no real appetite to discover what may have been unpalatable facts, nor to provide them.

The “Locked Out” Report

44. A key aspect of the Disability Equality Forum's work during the specified period was the production of a report addressing the direct and indirect impact of Covid-19 on disabled people in Wales. The report, which was called “Locked out: liberating disabled people's lives and rights in Wales beyond Covid-19”, was completed in March 2021 and published on 2 July 2021. I exhibit a copy as **M2B-WG-JL-01-34/INQ000353434**. There had been a lot of discussions at the meetings of the Disability Equality Forum about the different ways that disabled people had been negatively affected by the pandemic. It was clear to all that the existing negative socioeconomic factors affecting disabled people were mainly responsible for the high death rates amongst disabled people which had been confirmed in the ONS published statistics in September 2020, which I referred to earlier in this statement. This needed to be explored. The purpose of the Locked Out report was to investigate and consolidate the available information. Ultimately, the results of this analysis formed the basis of wide-ranging recommendations that could inform future Welsh Government decision-making across almost all areas of government. The report was commissioned by the Deputy Minister and Chief Whip, following a meeting of the Disability Equality Forum on 23 June 2020, the minutes of which, as I noted earlier, are exhibited to the statement provided by the Communities and Tackling Poverty Directorate. I was asked to lead on this work in partnership with Disability Wales.
45. A Steering Group was established to work on the Locked Out report. The Steering Group met regularly between June 2020 and March 2021. The Steering Group consisted of members of the Disability Equality Forum (including me) and was chaired by Rhian Davies of Disability Wales. In practical terms, although the report was published as a Welsh Government document, it was the Steering Group that authored the report, with the Welsh Government providing some of the secretariat functions plus a member of KAS who discovered, collated, shared, reviewed and summarised the vast volume of evidence that was obtained. Dr Debbie Foster, Professor of Employment Relations and Diversity at Cardiff University's Business School, who sat on the Steering Group, was the report's main author.
46. The report considered evidence collated by KAS from a wide range of sources, from peer reviewed research and official statistics, to social media and anecdotal reports from disabled people (including those who sat on the Steering Group) of their own lived experiences. The evidence paper that was provided to the Steering Group by KAS

which contained all this evidence is exhibited to the statement that is being provided to the Inquiry by the Communities and Tackling Poverty Directorate. The report “Covid-19 and the impact on disabled people” which was published on 11 March 2021 and is exhibited as **M2B-WG-JL-01-35/INQ000353433** provided a summary of that evidence.

47. The Locked Out report was very broad in scope. It considered five principle subject areas, namely: the social model versus the medical model of disability; human rights; health and wellbeing; socio-economic disadvantages; and exclusion, accessibility and citizenship. It made findings as to the impact of the pandemic on disabled people’s experience of each of these subject areas and in relation to a range of sectors, including education, employment, health, digital exclusion, public transport, and changes to the built environment. It identified a total of 70 recommendations. In very simple summary, the report considered and explained how the effect of Covid-19 has been to exacerbate pre-existing inequalities that are suffered by disabled people, and that much work still remains to be done to address those inequalities.
48. After the report was finalised and before it was published, I and the other members of the Steering Group met with the First Minister, the Deputy Minister and Chief Whip, the Minister for Health and Social Services, and the Deputy Minister for Health and Social Services, on 18 March 2021, to discuss the findings of the report. At this meeting, the First Minister accepted the need for a wide-ranging Disability Rights Taskforce that would work in co-production with all departments of the Welsh Government. The First Minister also agreed to publicly announce the creation of the taskforce the following morning, the last day before the 2021 pre-election period. I exhibit the minutes of that meeting as **M2B-WG-JL-01-36/INQ000350562**.
49. The Welsh Government published its response to the Locked Out report on 2 July 2021, the same day that the Locked Out report itself was published. The response outlined the work that was already underway in relation to the inequalities identified in the report, and the recommendations. I exhibit a copy of that response as **M2B-WG-JL-01-37/INQ000353435**.
50. Unfortunately, major staff shortages resulted in the Disability Rights Taskforce not commencing until October 2021, with its first meeting taking place on 18 November 2021. I understand that the minutes of that meeting and of the subsequent meeting on 3 February 2022 have been exhibited to the statement provided by the Communities and Tackling Poverty Directorate.

51. The Taskforce is due to cease in 2024 and is presently co-chaired by Dr Debbie Foster and the Minister for Social Justice. I am unsure of its total membership as there are nine working groups, which have people who attend one or more groups. I estimate that its total membership must be around 100-120 people which includes disabled people, representatives of disabled people's organisations, Welsh Government policy officials, public bodies, Commissioners' offices (including the EHRC), and all members of the Locked Out Steering Group and of the Disability Equality Forum. The purpose of the Taskforce was not simply to begin to address the inequalities identified in the Locked Out report, but to go further and to seek to address all forms of discrimination faced by disabled people where Welsh Government has competence. It remains to be agreed which entity will take responsibility for overseeing the implementation of the recommendations by the Welsh Government, and by external public, private and third sector bodies, once the Taskforce is concluded next year.

52. The Disability Rights Taskforce was supported by the Prioritisation Working Group, of which I was a member, along with a number of Welsh Government policy officials and members of the Disability Equality Forum. The purpose of the Prioritisation Working Group was to consider and agree priority topics to be considered by the Disability Rights Taskforce, which had a much wider membership. Again, I understand that a sample of minutes of the meetings of the Prioritisation Working Group have been exhibited to the witness statement that is being provided by the Communities and Tackling Poverty Directorate.

Covid-19 Moral and Ethical Advisory Group for Wales (CMEAG)

53. In the early stages of the pandemic, the Welsh Government established its own Moral and Ethical Advisory Group for Wales (known as CMEAG). This initiative was led by Dr Heather Payne, who acts as a Senior Professional Adviser on health policy to the Welsh Government. CMEAG was intended to operate in parallel to the UK Covid-19 Moral and Ethical Advisory Group (known as MEAG or UK MEAG), which provided independent advice to the UK government on moral, ethical and faith considerations relevant to health and social care issues during the pandemic. Dr Payne sat as a member of MEAG. The purpose of CMEAG was to offer the same kind of advice to the Welsh Government on issues specific to Welsh public services, as well as providing support for the co-ordination and implementation in Wales of the large volume of Covid-19 related guidance emanating from bodies such as UK MEAG, NICE, the Royal Colleges, professional bodies, and any other relevant groups.

54. CMEAG met for the first time on 6 April 2020 and continued to meet regularly (once or twice a month) throughout the specified period until Dr Heather Payne prepared its summary in February 2022. It was co-chaired by Dr Payne and its membership consisted of independent ethicists, NHS Wales Health Board ethicists, stakeholder bodies such as Disability Wales, and Welsh Government officials.
55. I was a member of CMEAG in my capacity as Specialist Policy Adviser. I was very pleased to be invited to join the group, as I have for many years held concerns in regard to the Utilitarian based ethics that shapes the allocation of treatment in the NHS. Throughout the Covid-19 period, many disabled people were very concerned about how they would be treated if they fell ill with Covid-19. I shared those concerns which were clearly evidenced by the draft NICE guidance on critical care for adults in the context of Covid-19, which recommended assessing all patients for their degree of frailty on admission to hospital and, for patients with a critical frailty scale above a certain level, having a discussion with critical care specialists about whether treatment would be appropriate. The guidance was subject to much criticism and NICE subsequently published a clarification that the scale should only apply to patients over 65. In my view, both versions of the NICE guidance reflect pure utilitarianism where the lives of disabled people were considered differently to non-disabled people.
56. In my first meeting of the group, the UK MEAG guidance was presented and it was suggested that Wales should just adopt it. I and others rejected that proposal for a number of different reasons. Myself and one other argued that we had to move away from a group approach to treatment to one based on the needs of the individual, all through a human rights lens. I exhibit two emails that I sent to the Deputy Minister and Chief Whip following this meeting, which outline my concerns **M2B-WG-JL-01-38/INQ000352982** and **M2B-WG-JL-01-39/INQ000352984**. Our arguments were successful and new Welsh guidance was created with the focus that I had hoped for. The Welsh CMEAG guidance was published on 12 April 2020 and I exhibit a copy as **M2B-WG-JL-01-40/INQ000081000**. In my view, Dr Heather Payne should be commended for her work, as she demonstrated a firm commitment to challenging the existing NHS ethical framework, while modelling what it should be.
57. The Group reported to the Chief Medical Officer, Sir Frank Atherton, and the Minister for Health, the Deputy Minister and Chief Whip, and the Minister for Housing and Local Government. I exhibit the Ministerial Advice recommending the establishment of

CMEAG as **M2B-WG-JL-01-41/INQ000097679**, and examples of minutes of the CMEAG meetings that took place on 6 April 2020 (**M2B-WG-JL-01-42/INQ000353338**); 30 April 2020 (**M2B-WG-JL-01-43/INQ000353044**); 14 May 2020 (**M2B-WG-JL-01-44/INQ000353059**); 21 May 2020 (**M2B-WG-JL-01-45/INQ000353058**); 4 June 2020 (**M2B-WG-JL-01-46/INQ000353424**); 2 July 2020 (**M2B-WG-JL-01-47/INQ000353337**); 9 July 2020 (**M2B-WG-JL-01-48/INQ000353342**); 30 July 2020 (**M2B-WG-JL-01-49/INQ000353426**); 13 August 2020 (**M2B-WG-JL-01-50/INQ000353427**); 10 September 2020 (**M2B-WG-JL-01-51/INQ000353344**); 24 September 2020 (**M2B-WG-JL-01-52/INQ000353428**); 8 October 2020 (**M2B-WG-JL-01-53/INQ000353429**); 5 November 2020 (**M2B-WG-JL-01-54/INQ000353341**); 3 December 2020 (**M2B-WG-JL-01-55/INQ000353430**); 10 December 2020 (**M2B-WG-JL-01-56/INQ000353349**); 15 January 2021 (**M2B-WG-JL-01-57/INQ000353343**); 26 February 2021 (**M2B-WG-JL-01-59/INQ000353357**); 14 May 2021 (**M2B-WG-JL-01-60/INQ000353354**); 26 October 2021 (**M2B-WG-JL-01-61/INQ000271798**); 22 February 2022 (**M2B-WG-JL-01-62/INQ000353356**).

Shielding advice and the Shielding Patients List

58. On 31 May 2020, the Minister for Health and Social Services announced the first easing of the guidance for those who were shielding, based on advice from the CMO. From 1 June 2020, individuals who were shielding were advised that they could participate in unlimited exercise outdoors, and that they could meet with another household outside on the same terms as everyone else in Wales (at that time, observing social distancing and good hygiene practices).
59. I first learned about the easing of the shielding guidance through discussions with officials in private office. I was surprised that the decision had been taken without seeking input from myself or the other equality focused Specialist Policy Adviser. I attended a meeting of the Disability Equality Forum on 4 June 2020 to discuss concerns regarding the easing of shielding. I exhibit a copy of the minutes of that meeting as **M2B-WG-JL-01-63/INQ000281736**.
60. On the same day, the Minister for Health and Social Services had made a further statement confirming that the CMO(W) would start to review the advice to those shielding on the same cycle as the review of the lockdown regulations, but that it was anticipated that there would be no further relaxation of the guidance for those shielding

until after 16th August 2020. I exhibit a copy of that statement as **M2B-WG-JL-01-64/INQ000353425**.

61. As will be apparent from the Disability Equality Forum minutes, there was a lot of discussion about the easing of the shielding guidance at the meeting on 4 June 2020. Concerns were raised about the way that the announcement had been made, on a Sunday, meaning that individuals were not necessarily able to access relevant support or contact their health care providers. I am not aware of an Equality Impact Assessment being carried out at this time. Disability Equality Forum members emphasised the importance of involving people with protected characteristics in decisions that impact them, and sought a commitment from the Welsh Government to involve people from shielding groups in the review and planning of future arrangements.
62. Shielding was subsequently paused from 16 August 2020, and updated guidance was published towards the end of the year as infection rates rose again. From 22 December 2020, people in the clinically extremely vulnerable group (that is, the shielding group) were advised to no longer attend school or to work outside the home, as set out in the letters issued by the CMO (W), a copy of which I exhibit to assist the Inquiry **M2B-WG-JL-01-65/INQ000353431**. Then as rates came under control again, shielding was paused from 1 April 2021, as announced by the Minister for Health and Social Services on 12 March 2021, which I exhibit to assist the Inquiry as **M2B-WG-JL-01-66/INQ000353432**. I was not involved in or consulted about any of these decisions, but I refer to them here for context.
63. I next became involved in discussions around shielding in September 2021, when there was a proposal to end all shielding advice and to terminate the Shielding Patient List (this being the list of around 140,000 individuals in Wales who had been identified from the start of the pandemic as being potentially clinically extremely vulnerable to Covid-19). Even though the advice to the clinically extremely vulnerable group to take shielding precautions had been lifted from 1 June 2020, as I noted above, many individuals had continued to shield since that time and/ or to take additional precautions and continued to feel very anxious about their risk of contracting the virus. I exhibit the Ministerial Advice dated 9 September 2021 setting out the proposal and the four possible options for its implementation as **M2B-WG-JL-01-67/INQ000353269**. My view at that time was that it seemed inconsistent to end the Shielding Patient List given that the message being given to members of the public in Wales generally was still to

exercise caution. I considered that the List should be maintained until at least March 2022. This was because it was still possible that a more dangerous form of the virus could come into existence, requiring us to rebuild that list again from scratch. I exhibit an email I sent to the Minister for Social Justice on 9 September 2021 setting out my concerns, as **M2B-WG-JL-01-68/INQ000353265**, and a further email to an official on the Welsh Government's Shielding team, on 10 September 2021, as **M2B-WG-JL-01-69/INQ000353270**. I understand that these comments were shared with the Minister for Health and Social Services.

64. Ultimately, my understanding is that the Shielding Patient List for Wales was closed at the end of March 2022.

Accessible Communications Group

65. In early June 2020, the Accessible Communications Group was established by Welsh Government policy officials. The purpose of the Accessible Communications Group was to improve access to information about Covid-19 by members of the public during the pandemic. The membership of the Group consisted of policy officials as well as a range of organisations in Wales representing the interests of people who may face barriers in accessing communications, including deaf people, blind people, those with hearing loss, those with sight loss, older people, children, refugees, those with learning disabilities, or people from the Gypsy, Roma or Traveller communities. The Group met on 4 June 2020 and 18 June 2020 and heard feedback from its members which is summarised in the document I exhibit as **M2B-WG-JL-01-70/INQ000282067**. I was not involved in the production of that document at the time, and I do not know by whom or for what purpose it was produced, but I exhibit it because it reflects the nature of the feedback that I recall was received by the Group. In summary, the feedback revealed that there was more that could be done by the Welsh Government to improve accessibility of information for different groups of people in Wales.

66. The Group developed a set of guidelines to be used by all Welsh Government staff when producing communications, to ensure that these are accessible to all members of the public, I exhibit the guidelines as **M2B-WG-JL-01-71/INQ000353360**. Unfortunately, the guidelines were often not followed, leading me to intervene on a number of occasions.

Communication

67. Throughout the period of time, I used my personal phone to communicate with Jane Hutt AM, whilst she was the Deputy Minister and Chief Whip and in her current role as Minister for Social Justice and will make these available to the inquiry. I have a thread of text messages that I have made available to the public Inquiry. I can confirm that I have not deleted any messages. I did not communicate with any other Minister, or official using my personal phone. I was not a member of any WhatsApp, text, or email communication groups and I did not otherwise have any other informal communications by WhatsApp, text or email with either Ministers or officials.

68. Throughout the period I have had three personal phones, one between June 2019 and November 2021, another from November 2021 to October 2023, and I have recently had a new device. These were all to replace damage or faulty handsets. Both devices were restored from backups, however it was only brought to my attention recently that my WhatsApps were not automatically being backed up. To the best of my recollections, I did not send any WhatsApp messages relating to the Welsh Government's Covid-19 response.

69. Although issued a Welsh Government phone, I did not routinely use this device. For the purpose of accuracy and completion, I recently checked this phone for messages, and I can confirm there are no message.

Lessons learned

70. I have been asked to confirm whether I was involved in any lessons learned exercises – I was not.

71. In regard to preparation for future pandemics/epidemics, I believe that to simply place preparation into the realm of medical/health provision, would be a grave mistake. The disproportional community impacts of Covid, highlight the fact that we were not “all in this together”.

72. In order to truly prepare for future pandemics/epidemics, discrimination based on class, race, age, disability and socioeconomic disadvantage must be addressed. This is not simply an ethical or moral issue being driven by a belief in equality, it is also a social cohesion, economic and health issue. The negative relationship of health and

socioeconomic disadvantage has been known since the work of epidemiologist/ medical statistician William Farr (30 November 1807 – 14 April 1883), however, public health campaigns so often seem to me to simply deal with the appearance and not the underlying discrimination and socioeconomic disadvantage that often shows itself in health statistics. We need to change this approach to one of social justice, for if the UK is to be best prepared for any future crisis, we need all our communities to be resilient and empowered.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed:

Personal Data

Dated: 11 / 12 / 2023